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Attorney Docket No. P24085

In re application of : M. HAUL

Application No. : 10/658,200

Mail Stop Amendment

Group Art Unit: 1723

Filed : September 10, 2003

Examiner: J. W. Drodge

For : DEVICE AND PROCESS FOR CONVEYING ROD-SHAPED FILTER ELEMENTS

Mail Stop Amendment

Commissioner for Patents
 U.S. Patent and Trademark Office
 Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Sir:

Transmitted herewith is an **Election with Traverse** in the above-captioned application.

Small Entity Status of this application under 37 C.F.R. 1.9 and 1.27 has been established by a previously filed statement.

A verified statement to establish small entity status under 37 C.F.R. 1.9 and 1.27 is enclosed.

A Request for Extension of Time.

No additional fee is required.

The fee has been calculated as shown below:

Claims After Amendment	No. Claims Previously Paid For	Present Extra	Small Entity		Other Than A Small Entity	
			Rate	Fee	Rate	Fee
Total Claims: 36	*36	0	x 25=	\$	x 50=	\$0.00
Indep. Claims: 2	**3	0	x 100=	\$	X200=	\$0.00
Multiple Dependent Claims Presented			+180=	\$	+360=	\$0.00
Extension Fees for _____ Month(s)				\$		\$0.00
			Total:	\$	Total:	\$0.00

* If less than 20, write 20

** If less than 3, write 3

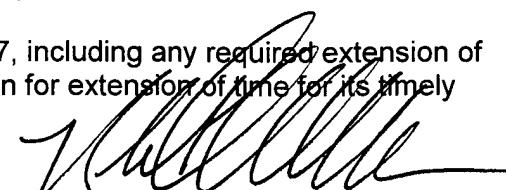
Please charge my Deposit Account No. 19-0089 in the amount of \$_____.

N/A A check in the amount of \$_____ to cover the *filing/extension* fee is included.

X The U.S. Patent and Trademark Office is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 19-0089.

X Any additional filing fees required under 37 C.F.R. 1.16.

X Any patent application processing fees under 37 C.F.R. 1.17, including any required extension of time fees in any concurrent or future reply requiring a petition for extension of time for its timely submission (37 C.F.R. 1.136(a)(3)).


 Neil F. Greenblum
 Reg. No. 28,394

Robert W. Mueller
 Reg. No. 35,043



1085.A04

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Michael HAUL Confirmation No. 3243
Serial No : 10/658,200 Group Art Unit: 1723
Filed : September 10, 2003 Examiner: J. W. Drodge
For : DEVICE AND PROCESS FOR CONVEYING ROD-SHAPED FILTER ELEMENTS

ELECTION WITH TRAVERSE

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Amendment
Randolph Building
401 Dulany Street
Alexandria VA 22314

Sir:

In response to the Examiner's restriction requirement of March 9, 2006, the time set for response being one month, i.e., April 10, 2006 (April 9, 2006 being a Saturday), Applicant hereby elects the invention of Group I directed to claims 1-25 with traverse.

In the instant Official Action, the Examiner indicated that all claims (i.e., claims 1-36) were subject to restriction under 35 U.S.C. § 121. The Examiner restricted the claimed invention into Group I, including claims 1-25, and drawn to a device for conveying filter elements, classified in class 210, subclass 91, and Group II, including claims 26-36, and drawn to controlling movements of filter elements, classified in class 210, subclass 739 or class 198, subclass 341.03.

The Examiner asserted that the inventions of Groups I and II were related as process and apparatus for its practice. The Examiner also asserted that the invention

groups are distinct from each other under M.P.E.P. § 806.05(e).

Applicant respectfully submits that the instant restriction requirement is improper at least because the Examiner has omitted one of the two criteria for a proper restriction requirement now established by the U.S. Patent and Trademark Office policy. That is, as set forth in M.P.E.P. § 803, "an appropriate explanation" must be advanced by the Examiner as to the existence of a "serious burden" if the restriction requirement were not required.

While the Examiner has alleged possible distinctions between the identified groups of invention, the Examiner has not shown that a concurrent examination of these groups would present a "serious burden." In fact, the Examiner has failed to specify any appropriate statement that the search areas required to examine the invention of Group I would not overlap into the search areas for examining the invention of Group II, and vice versa.

Applicant respectfully submits that the search for the combination of features recited in the claims of the above-noted groups, if not totally co-extensive, would appear to have a very substantial degree of overlap. Indeed, the Examiner has acknowledged that each Group would require searching in the same class, i.e., class 210. Furthermore, both groups of claims have a number of features in common such as a rotatable drum and a detection device. Because the search for each group and species of invention is apparent substantially the same (for purposes of examination), Applicant submits that no undue or serious burden would be presented in concurrently examining Groups I-II. Thus, for the above-noted reasons, and consistent with the Office policy set forth above in M.P.E.P. §

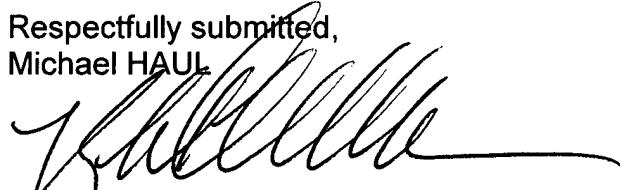
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803, Applicant respectfully requests that the Examiner reconsider and withdraw the restriction and species requirement in this application.

For all of the above reasons, the Examiner's restriction is believed to be improper. Nevertheless, Applicant has elected, with traverse, the invention defined by Group I directed to claims 1-25, in the event that the Examiner chooses not to reconsider and withdraw the restriction and/or species requirement.

Please charge any additional fees necessary for consideration of the papers filed herein and refund excess payments to Deposit Account No. 19-0089.

Respectfully submitted,
Michael HAUL



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April 6, 2006
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